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## The Sources and Distributions of the State Literary Fund

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THE SOURCES AND DISTRIBUTIONS OF  
THE STATE LITERARY FUND

by

Oscar S. Chaplain

SUBMITTED IN PARTIAL FULFILLMENT  
OF THE REQUIREMENTS  
OF THE  
COLLEGE OF WILLIAM AND MARY  
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1936

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## Introduction

Prior to 1776 in Virginia there was practically no effective legislation regarding public education. For more than a century and a half, Virginia had been strictly a tobacco colony, drawing to its borders many people of good traditions and sound minds. By the year 1776 they had organized a "Little England" on this side of the Atlantic, with agriculture as the foremost industry.

The plantation system of the colony was not conducive to any general system of schools, and, as a result, education was more a problem of each plantation than of the colony as a whole. As a solution to this situation, the tutorial system of England was transported to the Colony by the wealthy planters who owned and operated the plantation.

Along with this tutorial system there developed another type of schools commonly known as the Field school. Bruce says,

"Perhaps the greatest population of the children who during the seventeenth century received an education obtained it in what became known as the Field school." (1)

These schools were the result of cooperation among neighbors for the mutual purpose of educating the youth. Located in some central spot or worn out field, these

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(1) Bruce, P.A. Institutional History of Virginia.  
Volume 1, p. 331

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schools were supported by tuition fees and were not dependent upon any authority other than that of the leaders of the community.

Education throughout the early period was regarded as a special privilege to be given only to those who were able to pay for it. The masses were mostly employed in cultivating tobacco and in other manual pursuits which did not require the classical education offered the aristocrats of Virginia.

During the first century there were several definite efforts to establish an institution of higher learning. As early as 1619 the London Company, the King, and the Anglican bishops aided in obtaining over two thousand pounds and a grant of ten thousand acres of land for the establishment of the University of Henrico. This plan was brought to a violent end by the Indian massacre of 1622. There were other attempts in 1624 and 1660, both of which met with failure. However, in 1692 the constant efforts to secure an institution of learning were finally rewarded. Through the management of Reverend James Blair, D.D., the bishop's commissary in Virginia, a charter for the College of William and Mary was granted by the King, and at the same time a gift of two thousand pounds, twenty thousand acres of land, and the right to the revenue from certain colonial taxes were also secured for the benefit of the College. So in the year 1693 William and Mary was actually started. Thus



by the middle of the eighteenth century a fair provision for secondary and higher education had been voluntarily made in various localities, but no real interest in publicly supported common schools had been displayed.

After the close of the Revolution a desire for genuine public education began to express itself. The leader of this movement was that statesman Thomas Jefferson, who introduced in the legislature of Virginia a plan for public education in the state. His bill proposed to lay off all the counties into small districts five or six miles square, to be called "hundreds." Each hundred was to establish at its own expense an elementary school to which every citizen could send his children free for three years and for as much longer as he would pay. The leading indigent pupil in each school was to be selected annually and sent to one of the twenty grammar schools, which were to be erected in various parts of the state. After two years at the grammar school the leader in each school was to be selected and given a complete secondary course of six years. The rest of the pupils were to be dismissed. At the end of this six year course the lower half of the superior pupils thus determined were to be retained as teachers in the grammar schools, while the upper half were to be supported from the public treasury for three years at the College of William and Mary. The bill was quite democratic in that it provided for no higher

authority for administration than the local district. When the bill was finally passed in 1796 it had been so amended that the county court had the authority to initiate a school system and tax the people for its support. The judges of the courts of Virginia were, generally speaking, of the wealthy and aristocratic class and should the common schools be established it would be the rich who would bear the burden of its support; hence, the judges declined in almost every instance to set up the procedure necessary for the establishment of a system of free schools. It was this condition that Governor John Tyler pleaded against in 1809, and it was his message that resulted in the establishment of the Literary Fund.

## Part I

### The Literary Fund From 1810 to 1860

Governor John Tyler's message to the General Assembly on December fourth, 1809, furnished the immediate instance and inspiration for the establishment of the Literary Fund. Governor Tyler said,

"A faint effort was made some years past to establish schools in the respective counties throughout the Commonwealth, but even in that solitary instance the courts had a discretionary power to execute the law or not, which completely defeated the object intended; for in no instance had the law been complied with, to the disgrace of the County Court, and to the great disadvantage of the people.....

Nor have the representatives of the people, hitherto, been clear of the blame in so long neglecting to establish some other system, or to amend the law before mentioned, so as to ensure its execution. There cannot be a subject of more importance to a free government than that which we at present contemplate. This seems to be admitted by every intelligent man who wishes well to our country and yet so fatal is the apathy which prevails or so parsimonious a policy has insinuated itself among us, that year after year is permitted to pass away without a single attempt to attain so great and indispensable an object. Neither are those old seminaries, which were established before the Revolution, supported in proper manner, either as to funds or discipline.....

I have for the last twenty years of my life, had an opportunity in the discharge of my public duties as a judge, to see the mortifying picture which I have drawn and of which experience has enabled me, in every day's travel through the state, to prove the reality.

Scarcely a common country school is to be found capable to teaching the mother tongue grammatically, and as much writing and arithmetic as is absolutely necessary for the ordinary business between man and man. In this situation

of our country, would not an enlightened stranger, if he were making a tour through the state, readily conclude, that in the general passion for war which pervades almost the whole, civilized world, we had, for want of an enemy at our gates, declared an exterminating war against the arts and sciences?" (1)

On December fifteenth, 1809, the General Assembly ordered

"That so much of the Governor's message as relates to the subject of education be referred to a committee consisting of Messrs. Noland, Preston, Stevenson, Johnson (Isle of Wight), Claiborne, Jeffries, Blackburne, Stannard (of Spotsylvania), Archer (of Norfolk Borough), McCampbell, Laidley, Berkshire, and Campbell."

This committee on the nineteenth of January, 1810, reported the following bill, which, it is understood, was written by James Barbour, Speaker of the House. It was enacted into law February second, 1810.

"1. Be it enacted, That all escheats, confiscations, fines, penalties, forfeitures, and all rights in personal property accruing to the Commonwealth as derelict, and having no rightful proprietor, be, and the same are hereby appropriated to the encouragement of learning; and that the auditor of public accounts be, and is hereby required to open an account to be designated The Literary Fund to which he shall carry every payment hereafter made into the treasury on account of any escheat or confiscation, which has happened or may happen, or any fine, penalty, or forfeiture which has been or may be imposed, or which may accrue; provided always, that this act shall not apply to militia fines." (2)

This act caused Virginia to be "second of the Southern States and fifth of all the States to establish a

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(1) Letters and Times of the Tylers. Richmond, 1884. Volume I, p. 238.

(2) Acts of Assembly, 1810. P. 15.

permanent public-school fund." (3) The Fund grew slowly at first, and its sources were confined to fines, forfeitures, and penalties. By the end of the second year, the total was \$14,175.17 or an average of approximately seven thousand dollars per year. (4)

At the next session of the General Assembly on February twelfth, 1811, an act was passed to provide for the "Education of the Poor." This act made a solemn protest against

"Any future legislation misapplying the Literary Fund to any other purpose than that of "Education of the Poor"..... an object equally humane, just and necessary, involving alike the interest of humanity and the preservation of the constitution, laws, and liberty of this Commonwealth." (5)

The act provided that

"All sums of money which have accrued or may hereafter accrue to the Literary Fund..... shall be and the same are hereby vested in the following persons to wit: the governor, lieutenant governor, treasurer, attorney general, and the president of the court of appeals of this Commonwealth for the time being, and they and their successors are hereby constituted a body politic and corporate under the denominations of the President and Directors of the Literary Fund..... The said president and directors are hereby empowered to raise by lottery, any sum not exceeding thirty thousand dollars..... That it shall be lawful for said president and directors to conduct all the operations of such lottery in person or by commission or by agents by them appointed for

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- (3) Knight, E.W. Public Education in the South. P. 167
  - (4) House Journal, 1821-22. Report of Second Auditor.
  - (5) Acts of Assembly, 1811. pp. 8-10.

that purpose..... For a more speedy and certain collection of the Literary Fund..... the president and directors are authorized and required to appoint in each county and corporation therein an attorney or agent for the collection of the funds of the county..... That as soon as sufficient funds shall be provided for the purpose, it shall be the duty of the directors thereof to provide a school or schools for the education of the poor in each and every county of the Commonwealth." (6)

The Board in charge of the Literary Fund reported on December sixth, 1811, that

"The best intelligence express their strong sense of the utility of the institution (The Literary Fund). There are many difficulties due to the infancy of such an establishment..... but we think the Literary Fund will reflect lustre on the Commonwealth and will promote happiness, and by a diffusion of information so essential to liberty, will hand down our free and happy institutions..... and that a general system of instruction will eventually be realized." (7)

James Barbour was a member of the legislature from 1796 to 1812, and while in the General Assembly was elected by it, on January third, 1812, the Governor of Virginia.

In his first message to the General Assembly he stressed

"The urgent need of establishing some literary institutions..... No effort has been made to foster the means of education..... The Republican legislature has never since the first moment of its existence contributed one cent to an establishment of this kind." (8)

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- (6) Acts of Assembly, 1811. pp. 8-10.
  - (7) House Journal, December sixth, 1811. P. 12.
  - (8) Ibid.

The main purpose of this message was to secure a state appropriation to supplement the Literary Fund.

He stated:

"If the State helps out, the progressive augmentation of the Fund affords flattering prospects that the president and directors may be able to build a school or schools in each county sooner than they originally expected... Its vital importance recommends a further appropriation from the legislature." (9)

Governor Barbour's second annual report of the Literary Fund placed the amount at \$21,705.40, and recommended the establishment of

"A State Lottery Commission, the members of which shall be exempt from other public employment and to whom shall be given a small compensation. Their chief duty shall be to augment the Fund. This mode has been adopted by other sister states with great success..... A lottery might be objected to as improper and that we have a law against it. It is notorious that large sums of money are annually expended by our citizens in promotion of lotteries in neighboring states, leaving us their evils without their advantages. Let us establish a state lottery and interdict these other states." (10)

At this time lotteries were very popular and were used by the state not only for the Literary Fund but for colleges, academies, internal improvements, and other projects. It is somewhat paradoxical that the state should resort to the use of lotteries and at the same time pass a law forbidding lotteries. On February twentieth, 1812, a law was passed prohibiting unlawful gaming, stating

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(9) House Journal, December sixth, 1811. p. 12.

(10) House Journal, December fourteenth, 1812. p. 24.

"That no person in order to raise money for himself or another shall publicly or privately put up a lottery..... and whosoever shall offend herein, shall forfeit the whole sum of money proposed to be raised by such lottery... for the use of the Literary Fund." (11)

The Legislature did not see fit to establish a State Lottery Commission, as suggested by Governor Barbour, but in the same year there was a law

"Authorizing and empowering the President and Directors of the Literary Fund.....annually for seven years to come, to sell to any person or persons, the privilege of raising by lottery or lotteries a sum of money not exceeding thirty thousand dollars and to apply the proceeds of such sale to the benefit of the Literary Fund." (12)

It is interesting to note that in spite of the popularity of lotteries and the anxiety of Governor Barbour for the establishment of a state lottery commission, there were only \$334.00 attributed to lotteries in the Literary Fund up to 1822. (13)

#### • War of 1812

When the War of 1812 began, it was soon evident that the State of Virginia had to postpone its efforts for education and devote its entire means to oppose the enemy within its gates. Joseph C. Cabell wrote in 1824 to James Monroe, President of the United States, the following defense of Virginia's war claims of 1812:

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- (11) Acts of Assembly, 1812, February twentieth, p. 36.
  - (12) Acts of Assembly, 1812. p. 17.
  - (13) House Journal and Documents, 1821-23.



"Upward of a year had elapsed since the enemy's fleet had entered the Chesapeake. Our commerce was cut off; our agriculture benumbed; our resources both public and private, greatly curtailed. A powerful British squadron rode triumphant in our waters. Our maritime towns were threatened with conflagration. The slave population were instigated to rebellion. In spite of the exertions of a vigilant executive, and a brave militia, ever ready to meet the foe, the enemy having command of our waters and choosing his points of attacks, invaded our shores and extended his ravages along the extensive line of our eastern borders. It was the avowed object of the enemy to make Virginia feel the worst effects of a war..... Harassed by difficulties, foreign and domestic, the government of the United States was unable to fulfill its patriotic intentions and to meet the exigencies of an extended empire. True to herself and faithful to the union, the State of Virginia, from the very first moment of the invasion, put forth her resources with a liberal and unsparing hand..... To insure the defence, to which we were clearly entitled, we again and again went into the market and borrowed money and funded our debts, and paid the interest, until finally, at the close of the contest, the amount of our advances fell but little short of \$2,000,000.00" (14)

The first evidence of payments by the United States of the debt due the State of Virginia as a result of the War of 1812 is found in the Acts of the Assembly for February twenty-fourth, 1816, as follows:

"And be it further enacted, that whatever surplus may remain of the debt due the Commonwealth from the government of the United States, after discharging the debt due the Commonwealth, on account, to the Farmers Bank of Virginia and defraying the current expenses of the year..... it is hereby appropriated to public education, and for that purpose vested in the president and directors of the Literary Fund, to be hereafter applied as may be by law directed; provided that

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(14) Cabell, N.F. Early History of the University of Virginia. pp. 488-9.

so much thereof, as may be necessary, shall be applied by said president and directors as soon as the same shall have been received from the Government of the United States, to the purchase of certificates of the debt aforesaid, amounting to \$750,000.00 due from the Commonwealth to the Bank of Virginia and the residue to the purchase of such shares of stock of the James River Canal Company as may be tendered for sale to the treasurer of the Commonwealth..... and whatever part may not be so invested shall be appropriated by the said president and directors to the purchase of other productive stock....." (15)

By this act of February twenty-fourth, 1816, relative to the War debt of 1812, there was added to the permanent capital of the Literary Fund the following payments: in 1816, \$350,000.00; in 1817, \$450,000.00; in 1818, \$146,500.00; in 1819, \$46,514.62; in 1820, \$40,737.06; and in 1821, \$30,000.00, thus making a total of \$1,063,751.68. It is interesting to note that the legislature saw fit to stipulate in the act that if

"The calamities of war shall revisit our country, and render it necessary for the State of Virginia to again become a borrower of money, in such case, it shall be lawful for the legislature to withdraw from the Literary Fund the amount of the appropriation made to that fund by this act." (16)

Then again in recognition of interest due the State for money advanced during the War of 1812, the Acts of Assembly of 1825 relates the following:

"..... that the President and Directors of the Literary Fund be and they are hereby requested to invest without delay, in such public stock as they shall deem most productive, the

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(15) Acts of Assembly, February twenty-fourth, 1816.  
Ch. II, section 5.

(16) Ibid.

sum \$127,980.11 paid into said fund on account of claims of the Commonwealth, for interest on the money advanced for the use of the General Government during the late war with Great Britain." (17)

On February twenty-sixth, 1816, Joseph C. Cabell, who had been instrumental in formulating policies regarding education in the General Assembly, wrote to Thomas Jefferson,

"I now return your original letter to Mr. Carr. Its publication in my opinion was well timed and has produced a happy effect on the measures of the Assembly. We have appropriated all of our United States debt except \$600,000.00 to the purpose of education, and have required the President and Directors of the Literary Fund to report to the next Assembly the best plan of a University, colleges, academies, and schools. The passage of both of these messages is unquestionably to be ascribed in a great degree to your letter." (18)

In 1816, when the United States had made its first payment of \$350,000.00 on the war debt of 1812 and it had been placed to the credit of the Literary Fund, there was considerable opinion in the state that public education could be promoted without resort to a school tax, so the Legislature requested the President and Directors of the Literary Fund to report a general system of schools. In this report is found the plan for primary schools, academies, and a university; but it is quite evident that the Board had chiefly in mind the establishment of primary schools. As a part of their

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(17) Acts of Assembly, 1825. p. 8.

(18) Cabell, N.F. Early History of the University of Virginia. pp. 60-61.

report they submitted answers from learned men to a circular letter sent out by Governor W.C. Nicholas, President of the Literary Fund, asking three practical questions:

"1. How should the Literary Fund be administered and how augmented to create a three fold system of schools without resorting to local taxes?

2. Should the Fund go for the fulfillment of the Acts of 1810, 1811, and 1812, or to a new system of schools, open and free to all, rich and poor alike?

3. Should state aid go to build new academies, or a great university to promulgate science and arts, or should primary education be cared for out of the new fund?" (19)

In the body of Governor Nicholas's report is found the statement that former efforts for schools had failed because

"No revenue was set aside and schools were made to depend on funds extracted directly from the people..... The proposed system adopts means not burdensome to the community..... A happy feature is that vice and immorality are made to pay involuntary tribute to virtue and provide a means of their own extinction." (20)

The report of the second auditor for the Literary Fund, including the year of 1817, must have eased the fear of Governor Nicholas and the financial problem that had always stood in the way of an educational system. From the report one finds that the fund had passed a half million dollars and the annual income was considered large enough to render substantial assistance to free-

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(19) Sundry Documents on the Subject of System of Public Education. Richmond. 1817. pp. 18-34.

(20) House Journal, 1816. February twenty-fourth. pp. 22.

school support. Following this report, Charles Fenton Mercer drew up in 1817 a very exhaustive bill providing for a board of public instruction with a permanent secretary, primary schools, a system of academies, colleges, and a university. The House passed the bill but it was defeated by a small majority in the Senate. Jefferson said of the bill, "The university must go through. We should not be cluttered up with petty academies and colleges." (21) This bill of Charles Fenton Mercer, although lost, had its effect on the next session of the Legislature, for on February twenty-first, 1818, the following bill was enacted into law, which, together with those of 1821 and 1846, was to serve as the basis for the public school system of Virginia until the Civil War. It likewise established the University of Virginia.

"Section I. Be it enacted by the General Assembly, that for the purpose of duly applying a part of the income of the Literary Fund to the primary object of its institution, it shall be the duty of the courts of the several counties, cities, and corporate towns represented in the General Assembly, and the borough of Norfolk, as soon as may be in the present year and annually thereafter in the month of October, to appoint not less than five nor more than fifteen discreet persons to be called School Commissioners..... The said commissioners or a majority of them, shall hold their first meeting at the court house..... next after that, at which they shall have been appointed ..... they shall afterwards, in every year hold a meeting at the place aforesaid on the first day of the court of their county..... The said commissioners shall have power to determine what number of poor children they will educate, what

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(21) Cabell, N.F. Early History of the University of Virginia. pp. 50-84

sum will be paid for their education..... and to draw orders upon the treasurer for the payment of the expense of tuition and of furnishing such children with proper books and material for writing, and cyphering. The poor children shall..... be sent to such schools as may be convenient, to be taught reading, writing, and arithmetic.

Section IV. .... That the president and directors of the Literary Fund shall annually pay to each of said treasurers or order such proportion of the sum of \$45,000.00 as the free white population of the county, city, corporate town or borough in which such treasurer may respectively have been appointed, bears to the whole free white population of the Commonwealth.

Section VII. .... That the school commissioners shall annually present a statement to the president and directors of the Literary Fund exhibiting the number of schools, and indigent children in their county,.... price paid for their tuition; the number of indigent children educated in such schools; and what further appropriation from the Literary Fund will in their opinion be sufficient to furnish the means of education to all the indigent children in their county or corporation.

Section VIII. .... That there shall be established in some convenient and proper part of the state, a university to be called "The University of Virginia.".....

Section IX. Be it further enacted; That as soon as the site of said university shall be ascertained by law, there shall be appropriated out of the revenue of the Literary Fund the sum of fifteen thousand dollars per annum, for the purpose of defraying the expenses of procuring the land and erecting the buildings, and for the permanent endowment of said university. Provided, however, that the appropriation, hereby made to the university, shall in no manner impair or diminish the appropriations herein before made to the education of the poor in the several counties and corporations. (22)

By this act the Legislature took steps which led to the realization of the dreams of Thomas Jefferson, and

the University of Virginia was actually started; but the important business of education of the people at large was still left to private management. John Holt Rice wrote:

"The people are aware..... and demand of their legislators a wise and efficient system of public education..... Every one knows that the great business of erecting and endowing seminaries of learning is not to be left to the desultory and feeble exertion of individual enterprise. And should the state fail to provide the due instruction of the people they will fail in a paramount duty." (23)

John Holt Rice led the fight in Virginia for state supported academies, colleges, and intermediate schools. He was not in sympathy with the idea of educating the poor and contended that the primary school fund was wasted on an inefficient plan to educate paupers, while the price of education in the state remained high. His ambition was to have a law guaranteeing to every ten thousand of our white population, as soon as they would unite and erect an academy, a state annual endowment from the Literary Fund to the extent that it would make the tuition at these academies within reach of the common people. He believed that the State's great object should be to make education cheap instead of making it free. His pleas for academies, colleges, and intermediate schools were not entirely in vain, for on February twenty-fourth, 1821, the Legislature passed a law that

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(23) Virginia Evangelical and Literary Magazine. Richmond. 1818. I, p. 548.

not only made a further loan to the University of Virginia, but likewise appropriated \$20,000.00 to the endowment of colleges, academies, and intermediate schools. This law stated:

"That out of such money as shall hereafter be received by the President and Directors of the Literary Fund, from the Government of the United States or out of such other money as may be at the disposal of the said President and Directors and not otherwise appropriated by law, there shall be loaned..... to the Rector and Visitors of the University of Virginia for the purpose of completing the buildings.... Whenever the annual income of the Literary Fund shall exceed \$60,000.00 the surplus above that sum, until such surplus shall amount to \$20,000.00, shall be appropriated..... to the endowment of such colleges, academies, or intermediate schools within the Commonwealth as the General Assembly may hereafter designate as fit institutions for such endowment." (24)

At first this act gave the people of the state supporting the colleges, academies, and intermediate schools no little hope and enthusiasm; but in 1836, when the revenue of the Literary Fund did exceed \$60,000.00, the Legislature lost no time in changing the law so that the surplus above \$60,000.00 was given to the county commissioners for the primary schools and at the same time investing the county commissioners with the power of assigning all or any portion of the surplus belonging to their respective counties to the colleges and academies lying within their counties. In the House Journal of 1842, one finds a list of all the academies which



received aid out of school quotas arising from surplus revenue of the Literary Fund. (25)

Botetourt	\$241.18
Buckingham Female Institute	172.28
Fox Hall Academy	58.12
Fredericksburg Academy	201.85
Lewisburg Academy	216.77
Marshall Academy	158.02
New Market Academy	324.54
New Store Academy	50.00
Norfolk Academy	172.29
Northumberland Academy	183.97
Strausburg Academy	312.24
Slate River Academy	172.29
Staunton Academy	348.32
St. Brides Academy	137.71
Washington Academy	201.01

In addition to these indirect grants, there were direct grants and loans by the Legislature to certain academies and colleges in the state. One of the earliest legislative grants to academies was that to Margaret Academy in 1833. This law stated:

"Section I. The sum of \$100.00 be and is hereby appropriated annually out of the revenue of the Literary Fund for the benefit of Margaret Academy in the county of Accomac and the President and Directors of the said fund shall be and

they are hereby directed to pay the same to the trustees of said Academy semiannually or annually, at the option of said trustees.....

Section II. Be it further enacted, That the said trustees shall make an annual report to the President and Directors of the Literary Fund showing the state of funds of the Academy, the different sources of income.....disbursements.

Section III. That said President and Directors be and they are hereby directed to pay the further sum of \$1,000.00 out of the revenue of the Literary Fund to the said trustees.... for the improvement and erection of such additional buildings as said trustees may deem necessary."  
(26)

Margaret Academy was chartered in 1786, opened for reception of pupils in 1807, and was operated successfully until the outbreak of the Civil War. It was endowed by Miss Margaret Anne Onley, a resident of the old town of Pungoteague. She died in 1785 and left valuable property which she willed to be used as a school for both sexes. She desired that Northampton County should share equally with Accomac in the benefits of the institution.

Another example is shown by the act of the General Assembly in 1843, which ordered the President and Directors of the Literary Fund "to lend to Emory and Henry College the sum of \$18,000.00, properly secured by mortgage and ample personal security....." (27) Likewise the General Assembly directed

"The President and Directors of the Literary Fund to loan \$15,000.00 at six per cent interest upon application of the Medical Department of Hampden Sidney College at Richmond.....

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(26) Acts of Assembly, 1833. p. 13.  
(27) Acts of Assembly, 1843. p. 26.

that said President and Directors shall retain a satisfactory lien..... That before the investment is made the faculty of the College shall give..... sufficient personal security for the payment....." (28)

Also, in 1844, West Liberty Academy was granted a loan of "\$5,000.00 at six per cent interest or any less sum that the trustees may require." (29)

Likewise in the same year the Virginia Military Institute came in for an annual appropriation of \$1,500.00 from the Literary Fund. Early in the forties there was felt a strong need for trained teachers in the public schools, so the Legislature passed an act providing that "sixty state students should be educated there (Virginia Military Institute), free of charge, on the obligation that they teach in the public schools for two years." (30)

In addition to these appropriations to academies and colleges, there were other appropriations. One to an individual and the other for the establishment of an institution for the blind, deaf, and dumb. The Legislature in 1837, directed that

"\$1,186.20 be annually set apart and reserved by the President and Directors of the Literary Fund out of the annual appropriation of \$15,000.00 to the University of Virginia from said fund to be applied..... to the payment..... of annual interest on stock issued by the Rector

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- (28) Acts of Assembly, 1843. p. 26.  
 (29) Acts of Assembly, 1844. p. 23.  
 (30) Heatwole, C.J. History of Education in Virginia.

and Visitors of said University under authority of 'an act passed March seventh, 1827' for the sum of \$19,770.00 in the name of Mrs. Martha Randolph and said annuity is hereby pledged for the final redemption of said stock." (31)

In the next year, 1838, the General Assembly appropriated from the Literary Fund for the establishment of the Virginia asylum for the education of the deaf, dumb, and blind

"So much as necessary not exceeding \$20,000.00 for the purpose of procuring a suitable site or sites for the erection thereon the necessary buildings, and the further sum of \$10,000.00 shall annually be applied to the support of said institution." (32)

Without doubt the greatest beneficiary of both grants and loans was the University of Virginia. Year after year the Board of Visitors petitioned the Legislature for aid and received an attentive ear and favorable consideration. The committee on Schools and Colleges of the Legislature reported:

"Your Committee has seen with much satisfaction, the progress made by the Visitors of the University..... By prompt and judicious application of the means put at their disposal, an establishment, the foundations of which were laid but twelve months ago, has already advanced to such a state that with additional aid, its completion within the present year is believed to be entirely practical.... The pride and character of the State are intimately blended..... Your Committee have much pleasure in stating that the present condition of the Literary Fund affords ample means for that .... purpose." (33)

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- (31) Acts of Assembly, 1837. p. 13.
  - (32) Acts of Assembly, 1838. pp. 31-33.
  - (33) House Journal, 1819. p. 195.

As a further evidence of the favorable attitude of the General Assembly towards the University of Virginia one finds in the House Journal a resolution to the effect "That it is expedient to authorize the President and Directors of the Literary Fund to raise by loans a sum not exceeding \$80,000.00 for the purpose of completing the buildings of the University." (34)

While it is true that the act of 1818 did establish the University of Virginia and the University had made much progress during the first decade following this legislation, it was otherwise with the primary schools. There were numerous complaints of the system of 1818 and general dissatisfaction reigned. There was a lack of convenient schools, a lack of sufficient funds, and a shortage of convenient buildings. The population was scattered, there was general poverty on the part of the people, and the people did not approve of the idea of pauper schools. In 1826 a legislative committee reported that if the system had not failed, it had not been productive of the beneficial results which had been anticipated. The legislative committee then recommended that it was expedient either to suspend the system or to apply the funds exclusively to the education of the poor, and that there should be a combination of private contributions or tuition fees when the annual

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(34) House Journal, 1820. p. 107.

appropriation and tuition fees were insufficient.

These recommendations later led directly to the enactment of a law in 1829 which formed the basis of the "district free school system" of the state.

The General Assembly passed an act establishing District Free Schools. By this act the school commissioners of any county were authorized to divide their county into convenient school districts and

\*Whenever the inhabitants of any one of the said districts shall, by voluntary contribution have raised three-fifths of the amount necessary to build..... a good and sufficient schoolhouse..... it shall and may be lawful for said commissioners to appropriate out of the annual quota of their county the remaining two-fifths..... that said school commissioners shall have the authority to appropriate \$100.00 for the employment of a good sufficient teacher."

(35)

The school was to be free, open to all white children of the district, and to be under the control of three district trustees, two of whom were to be elected by the inhabitants of the district and the third appointed by the county school commissioners. Teachers were allowed four cents a day for instructing each poor child entered by the county commissioners. It was further provided that the county commissioners could purchase books, stationery, and other necessary school articles for poor children, provided that such expenditure did not exceed five per cent of the annual school

quota of the county. The desire for schools may be judged from the fact that only a few counties tried the plan of 1829 and most of those later turned back to the system of 1818, with the exception of Washington county where the system showed some signs of success. The system of 1829 was likewise unpopular, and did not produce results that were expected. It was an improvement over the system of 1818 in that it provided financial assistance to the locality in erecting school houses and paying teachers, but it was based on the old concept that public education was for the relief of the poor and indigent rather than for all. Both systems were often viewed with hostility and indifference by the wealthy, who felt that they were paying for that from which they received no benefit, and with pride and scorn by the poor, who refused to be considered objects of charity. In general, the greatest obstructions to an educational system at this time were, without doubt, the sparsity of population, lack of mandatory provisions for taxation for school support, lack of zeal and interest in public education, and the pauper idea ever present in both systems.

#### Educational Conventions 1841-1845

During the years 1841-1845 there were numerous educational conventions which cultivated a growing sentiment in behalf of better educational opportunities

in the State. Educational problems and subjects were discussed, and committees were appointed to prepare an address to the people of the State and a memorial to the Legislature. The most important convention and the one which imbedded its ideas upon the state more than any other was the Lexington convention, presided over by Dr. Henry Ruffner, President of Washington College (now Washington and Lee University), and the father of William H. Ruffner, Virginia's educational leader from 1870 to 1882. From this convention a report was sent to the Legislature which pointed out past defects of the school system and gave practical remedies for them. The report recommended state taxation, a state board of education, a state superintendent, county and local organizations, supervision, normal schools, public libraries, and other features of an advanced system. In 1845 another convention met in Richmond and prepared an address to the people and a memorial to the Legislature in an effort to promote better educational facilities. The memorial stated:

"One sentiment seemed to animate the whole body; namely, that they had been brought together to express the wish of the people upon an important and vital subject..... That this convention after three days of diligent and laborious investigation.... came to the determination that the existing system of public education in the state was wholly inadequate to the wants of the people, and ought therefore to be changed." (36)



Assembly, when he said,

"It is obviously important that the Legislature should settle definitely upon the ground on which this subject is to be treated---whether as a private affair or a State affair..... If the Legislature can agree upon the preliminary principle that education is a State duty, or a State trust, which ought to be provided for by law, it can have no difficulty in determining upon the point to which its judiciary labors should be chiefly directed. A single glance at the statistics of the subject will show that the greatest want which we suffer is that of common education." (37)

The Committee on Schools and Colleges reported that in their opinion the present system for the education of the indigent "should be preserved and amended." (38) and that any county should be empowered to adopt such a system of primary schools as the majority of the voters of the county might elect. Likewise any tax or levy could be imposed.

As a result of the agitation of the convention of 1845, the Legislature enacted a law in 1846 which provided for primary free schools. The courts of each county or corporation, with the assent of two-thirds of the voters, were given the authority to lay off their counties or corporations into districts and to appoint county commissioners who were to elect a superintendent. The schools were supported by the respective counties which adopted the system and were aided by the income

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(37) House Journal, 1845-46. p. 9.

(38) House Journal, 1845-46. Doc. No. 30.

from the Literary Fund. The district free school which was established by the act of 1846 was placed in operation in nine counties and four towns and "would have grown into a state system, had not war and reconstruction intervened." (39) This system, like others that preceded it, was not very popular and its chief weakness was its lack of mandatory provisions for taxation for school support. Lack of funds, however, was not the only obstacle, for the "pauper" idea, which had been unpopular in other systems, was still present in the public mind. It must be said, however, that the system of 1846 introduced the idea that education was a state function and somewhat paved the way for the increased educational opportunity that was to follow in the fifties.

#### Constitutional Convention of 1851

In 1851 a constitutional convention met in Richmond and for the first time wrote into the body of the Constitution a capitation tax, one-half of which was appropriated to the purpose of education. Article IV Section 24 says,

"A capitation tax equal to the tax assessed on land of the value of \$200.00 shall be levied on every white male inhabitant who has attained the age of 21; and one equal moiety of the capi-

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(39) Morton, R.L. History of Virginia Since 1861.  
p. 228.

tation tax upon white persons shall be applied to the purpose of education in primary and free schools....." (40)

At the next session of the legislature, as a result of the capitation tax, there was appropriated out of the general fund "to the Literary Fund for estimated net avails of the tax on free white males, \$56,000.00" (41), and two years later the entire capitation tax was appropriated by the Legislature to the Literary Fund. In that year the permanent available capital of the Literary Fund amounted to \$1,571,000.00 and the annual appropriation for school purposes was increased from \$45,000.00 to \$75,000.00. Educators of the State believed that the school system with the additional revenue would take on new life and that the time was ripe for the State to enter other fields of education than primary education.

Governor Joseph Johnson, the first governor to be elected by the people under the constitution of 1851, reported in his annual message to the General Assembly that the annual income from the Literary Fund was \$101,016.22, and that it was devoted entirely to elementary education. He made a plea for an additional use of the fund when he said:

"And liberal appropriations and loans amounting in effect to donations, have from time to time been made from the Literary Fund

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(40) Thorpe, F.N. The Federal and State Constitutions. p. 3841.  
 (41) Acts of Assembly, 1852-53. p. 25.

.....to higher grades of schools and colleges... Why then should agriculture, the most important and in our state the most neglected branch of education, be made the exception?" (42)

While there was no immediate action taken by the Legislature in the matter of a state agricultural college, yet the need was expressed officially and its introduction was made easier a few years later. The facts are that the Congress of the United States, on the second of July, 1862, passed an act donating public lands to the several states and territories to provide colleges for the benefit of agricultural and mechanical arts, and at the end of the Civil War in 1865 there was enacted a law by the General Assembly of Virginia directing the governor to

"Appoint an agent or commission to apply to and receive from the Government of the United States the script or warrants of land to which the state of Virginia may be entitled ..... That the Board of the Literary Fund of the Commonwealth shall..... invest the money derived from the sale of lands.... in stocks of the United States, or in certificates of indebtedness of the state of Virginia, or in some other safe stocks yielding not less than five per cent per annum....." (43)

But seven years later when the money became available, the Legislature passed an act distributing this grant, giving one-third to the Hampton Normal School for colored people and two-thirds to be used in the establishment

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(42) House Journal, 1852. p. 14.

(43) Acts of Assembly, 1865. pp. 224-25.

of the Virginia Agricultural and Mechanical College at Blacksburg, Virginia.

The educational sentiment of the period was perhaps best reflected in the proceedings of the two sessions of the Virginia Educational Convention held in Richmond in 1856 and 1857, representing the interests chiefly of the academies and colleges of the State. At the first convention committees were appointed to study the educational conditions of the State and to report at the second convention in 1857. Chief among these was the report from the committee on the Literary Fund. This committee reported that the revenue from the fund had been used exclusively for the education of the poor, except in those few counties where the district free school had been adopted and where there was a surplus beyond the actual needs of the poor, in which case those in authority could transfer such surplus to any incorporated college or academy in the county. The report questioned the benefits derived from the distributions of the Literary Fund and pointed out that the Fund was the property of all the people. The report says,

"Is it right to take the property of the many and bestow it exclusively on the few?.... Now is it right to exclude from all the benefits of the Literary Fund all the children of this glorious old Commonwealth except those who put in the plea of rags and dirt? ..... Can this injustice and partiality benefit the poor children? ..... Is it a law of humanity, that to lift up you must first degrade, that to elevate the soul and spirit of a child you must first make him

a public pauper?....." (44)

The management of the fund was also criticized, and Governor Henry A. Wise was requested to furnish the convention with any information which he had concerning the fund and its management. Governor Wise stated that the law applying the capitation tax to the Literary Fund had not been observed, and that between \$100,000.00 and \$150,000.00 had accumulated that was not being used for the purpose of education. He also complained that more than one-fifth of the capital of the Literary Fund had been lost or given away on account of bad investments and poor management, and that the cost of administering the Fund, which was eight and one-half per cent, was too great. Finally, in speaking of the county quotas, he said:

"Notes in banks are paid with these quotas. Orders, for example, are often sent to Richmond to draw the county quotas, and accompanying these are orders to pay out of the amounts various private bills and debts in this very city..... This is common, and yet not considered wrong or illegal." (45)

Governor Henry A. Wise in his annual message to the General Assembly of 1860, stated that

"The Literary Fund has been increased nearly \$200,000.00 and the permanent investment will soon be nearly \$2,000,000.00. The interest upon this will be about \$120,000.00 and the whole capitation tax being devoted to the common schools, the funds for education to be annually expended are little short of \$250,000.00. Surely some

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(44) Knight, E.W. Public Education in the South. pp. 210-11.

(45) Knight, E.W. Public Education in the South. p. 212.

considerable portion of this can be appropriated to an increase of the annuities to the University and the Virginia Military Institute and other annuities may be given to the colleges, and to the professional and high schools without diminishing the bounties to the common schools. I recommend,

for the University	\$25,000.00
for Military Institute	10,000.00
for Medical College at Richmond	5,000.00
for ten colleges	30,000.00
for 100 high schools	40,000.00
	<u>\$110,000.00</u>
for common schools	<u>\$120,000.00</u>
	<u>\$230,000.00</u>

This, the funds can afford annually.....  
I earnestly plead to the General Assembly not to permit the present abuses of the common school expenditures to continue, and not any longer to refuse some liberal amount of patronage to our higher grades of institutions." (46)

This message of Governor Wise was encouraging and propitious, but as in the past thirty years so in the next ten, Virginia's foremost object was not to be public schools. Already war clouds had massed themselves on the horizon, and whatever bright hopes there were in Virginia for a worthy and creditable educational system of free schools, must be laid aside and the entire wealth and resources of the State mustered and sacrificed on the altar of the God of War. In 1861 the entire income from the Literary Fund was appropriated to the defence of the State. Much of the Fund was invested in Confederate bonds and other uncertain paper which resulted in a total loss to the Fund.

### Summary

The Literary Fund was started in 1810 and its revenue was confined to escheats, confiscations, penalties and forfeitures. For the first five years its growth was slow, but in 1816 over a million dollars of the United States debt due the state of Virginia as a result of Virginia's expenditures in the War of 1812 was appropriated to the Literary Fund for public education. The President and Directors of the Literary Fund were directed by the Legislature to invest the permanent capital of the Literary Fund in productive stock, the proceeds of which were to be used for education. In 1818 the Legislature appropriated \$45,000.00 annually from the income of the Literary Fund for the education of indigent children, and established the University of Virginia with a generous annual endowment. This system of 1818 was not popular. Many obstacles contributed to its failure; chief among these were the sparsity of population, poverty of the people generally, lack of qualified teachers and school buildings, and the pauper feature of the schools. The General Assembly made a second attempt and established the free school system of 1829. It was an improvement over that of 1818 in that assistance was given to localities in erecting school houses and paying teachers, but it still contained the objectionable pauper idea and was likewise



doomed to failure. A final effort in 1846 was made when the Legislature passed a law permitting each county to set up its public free school system and levy taxes for its support. This system had great promise and no doubt would have developed into a state-wide system had not the Civil War intervened.

In 1860 the permanent capital of the Literary Fund had reached nearly \$2,000,000.00 and the Legislature had increased its annual appropriation from the income of the Literary Fund from \$45,000.00 to \$75,000.00. An annual capitation tax of \$125,000.00 had also been added to the revenue of the Fund.

During the entire period, the Literary Fund was administered by the President and Directors of the Literary Fund under the direct authority of the General Assembly. There were many mistakes and abuses, but in all, the Literary Fund rendered a great service to education in Virginia in that it functioned at a time when Virginia was not ready to establish a complete system of public education; it paved the way for the development of the public school system that was to come later; and it directed public opinion to a system of public free schools.

## Part II

## The Literary Fund From the Civil War to Date

The years during the Civil War and the five immediately thereafter were trying times in Virginia. There was no successful effort to promote an educational system until 1867, when the Constitutional Convention made the following provision for preserving and increasing the Literary Fund:

"Article VIII, Section 7. The General Assembly shall set apart as a permanent and perpetual 'literary fund' the present literary fund of the State, the proceeds of all public lands donated by Congress for public school purposes, of all escheated property, of all waste and unappropriated lands, of all property accruing to the State by forfeiture, and all fines collected for offences committed against the State, and such other sums as the General Assembly may appropriate. The General Assembly shall apply the annual interest of the Literary Fund, the capitation tax, provided for by this constitution for public free school purposes, and an annual tax upon the property of the State of not less than one mill nor more than five mills on the dollar, for the equal benefit of all the people of the State." (1)

From the beginning of Virginia as a commonwealth, every educational system that had been tried was based principally on voluntary taxation, but with the constitution of 1868 taxation was mandatory and the Legislature was compelled to lay a property tax of at

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(1) Thorpe, F.H. The Federal and State Constitution. p. 3893.

least one mill and not more than five mills on the dollar for public education. In addition, each county and public free school district had the authority to raise additional sums by a tax on property for the support of public free schools. Likewise the capitation tax of 1851 was continued in the Constitution of 1869.

In accordance with the Constitution, the General Assembly on July 11, 1870, recognized the Board of Education as the successors of the Board of the Literary Fund and enacted the following:

"There shall be and are hereby set apart as a permanent and perpetual literary fund, the present literary funds of the State, the proceeds of all public lands donated by Congress for public school purposes, of all escheated property, of all waste and unappropriated lands, of all property accruing to the State by forfeiture, and all fines collected for offenses committed against the State, donations made for the purpose, and such other sums as the general assembly may appropriate. The same shall be known by the name of the Literary Fund, and shall be invested and managed by the Board of Education..... The principal of the said fund shall always remain unimpaired and entire, and the annual income arising therefrom shall be and is hereby dedicated exclusively to the support and maintenance of public free schools in this State." (2)

The constitution also required the Legislature to elect a superintendent of public instruction who should report to the General Assembly for its consideration

within thirty days after his election a plan for a uniform system of free public schools. There were a dozen or more applicants for the position, but Reverend W.H. Ruffner, who was ably supported by General Robert E. Lee, was unanimously elected. Thus it was by constitutional provision, legislative enactment, and unanimous election of the State Superintendent that the school system of 1870 was launched.

The system that Superintendent W.H. Ruffner recommended was strikingly similar in outline and principal features to that presented by his father nearly thirty years before. It called for state, county, and local supervision; schools were to be open free to all children of the state between the ages of five and twenty-one and were to continue for five months; separate schools were to be maintained for the two races; the Literary Fund was to be reorganized and thoroughly secured; and school support was to be derived from income from the Literary Fund and from a capitation tax of one dollar and a property tax of ten cents on every hundred dollars' valuation, with provision for optional district and county property taxation.

Superintendent W.H. Ruffner began at once work on the momentous task, and by December 1870 some schools had actually started. In 1871 he reported that the principal of solvent securities of the Literary Fund was \$1,596,069.05, and that the total revenue from all

sources for that year was \$440,882.09. \$62,271.66 of this amount was derived from the income from the Literary Fund, and \$338,610.43 from the capitation and property taxes.

### State Debts Funded

By an act of March 30, 1871, known as the Funding Bill, which provided for funding and paying of the public debt, the holders of State bonds could exchange their old bonds for new coupon bonds, whose coupons were to be used for taxes, debts, and other demands of the State. As a result of this act, coupons began to flow into the State treasury to the extent that the financial condition of the State became so serious that the State was forced to default in payment of its current obligations. In March, 1872, an act was passed over the Governor's veto forbidding tax collectors from receiving the coupons already issued in payment of taxes, but the Virginia Court of Appeals declared this act of 1872 an impairment of the obligation of the contract and therefore was unconstitutional. So the worthless coupons again became mediums of exchange as far as obligations to the State were concerned. A deficit soon resulted in the State's treasury, and the Literary Fund along with the general school fund seems to have been the first and last to suffer.

### Literary Bonds Funded

The Legislature in 1873 passed an act authorizing the Board of Education to fund the bonds of Virginia belonging to the Literary Fund:

"That the Board of Education is hereby authorized and required to have the bonds of the State of Virginia belonging to the Literary Fund funded ..... that the two-thirds of said bond for which the present state of Virginia is liable, shall be funded in registered bonds of this State, which registered bonds shall not be convertible into coupon bonds ..... The certificates given for the one-third of said bonds, set apart for West Virginia, shall be safely deposited and kept by the Board of Education subject to the provisions of any settlement which may be had between this State and the State of West Virginia. The condition of public accounts is hereby authorized and required..... as interest becomes due, to issue his warrant upon the treasury payable out of any money therein not otherwise appropriated..... to pay interest semi-annually..... upon registered bonds of this State issued for two-thirds of the aggregate amount of the bonds of the State of Virginia belonging to the Literary Fund."

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### Diversion of Schools Funds

It was not generally known until 1875 that the state funds belonging to schools had been used for other general purposes. Superintendent W.H. Ruffner in his report said,

"Last winter, as is generally known, the fact was brought to light that every year a considerable

part of the state funds belonging to the public schools had been used for general purposes of the government; and that the deficiencies had by that time amounted to something like \$400,000.00 (now said to be less). Although no well informed person supposes that any one committed intentional wrong in the matter, yet the people were deprived to that extent of the means of education..... The matter is mentioned here with the hope that something may be done to replace the misapplied funds, and to render impossible the continuance or future recurrence of such a diversion of funds sacredly devoted to education by the constitution and the laws of the State." (4)

This diversion of funds continued annually and Superintendent Ruffner in 1877 complained again:

"The annual and increasing diversion of school funds is so plain a violation of the constitution and the law of the state, and so destructive of the school system that I deem it my duty to ask the serious attention of the Legislature to it. (5)

Superintendent Ruffner was ever alert and fearless when he was fighting for either school funds or for those funds directly under the Literary Fund. He, in every instance, fought for the principle involved as well as for the dollars and cents. In 1878 he said,

"The diversion of school funds complained of in my last report has increased. Previously we had lost at the rate of about \$80,000.00 annually but last year over \$250,000.00 of school money was used for other purposes. The results, of course, is a breaking down of the usefulness of the school system. The financial prospect is so gloomy that there must be an immediate and very large curtailment in our school operations." (6)

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- (4) Virginia School Report, 1876. p. 10.
  - (5) Virginia School Report, 1877. p. 19.
  - (6) Virginia School Report, 1878. pp. 5-6.

And further in the same report he said,

"The arrest of a great school system in its career is something very different from the breakage of a canal; for its damage can never be repaired. The system may again revive, as ours will, and enter upon a new and successful career, but the mischief done to the minds of the children, now thrown out, can never be repaired." (7)

Finally in the annual report of 1878, Superintendent Ruffner summarizes the sum total of the diversions as follows: (8)

"Arrears from capitation, and tax on personal property previous to 1875	\$382,732.26
Arrears from 1875-1876	144,131.28
Arrears of 1877	256,782.85
Due from fines, forfeitures, etc.	<u>66,353.61</u>
	\$850,000.00
Add interest overdue to Literary Fund	<u>263,052.26</u>
Total	\$1,113,052.26"

In the years immediately following 1876 there was a life struggle between the schools and the State government. The people of the State wanted schools, but the leaders of the Funder Party were more deeply concerned about the good name and credit of the State than the progress of the school system. Everywhere it was evident that the force of the will of the people was at work. In the election the next year, the men and party that had failed in their opportunity to foster education "were tried and condemned at the bar of public

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(7) Virginia School Report, 1878. p. 7.  
 (8) Virginia School Report, 1878. p. 19.



opinion, and removed from power by verdict of the people." (9) The Legislature which was elected was pledged to restore to the schools the funds which had been used for other purposes. At the next session of the Legislature, in 1878, the auditor was directed to pay to the Literary Fund the amounts due the public schools in \$15,000.00 quarterly installments beginning July first, 1878, and to continue without "further order until full payment shall have been made." (10) By subsequent legislation these quarterly installments were increased to \$25,000.00. Finally, Superintendent Ruffner's efforts were rewarded by the enactment on March third, 1879, of the Henkel Bill which secured to the schools the revenues given them by the constitution and the laws of the State. Following this in 1882 the Legislature was even more generous when it "granted \$400,000.00 of the money which the State received from the sale of its share of the Atlantic, Mississippi and Ohio railroad." (11) During the course of the next few years there was returned to the school fund the entire amount of the diverted funds.

#### Literary Funds

In the years following the adoption of the Constitu-

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- (9) Knight, E.W. Public Education in the South. p. 346.  
 (10) Ibid.  
 (11) Morton, R.L. History of Virginia. p. 258.

tion of 1869 and the inauguration of the school system of 1870, the Literary Fund did not occupy that unique position it had occupied prior to the Civil War. The Commonwealth of Virginia, by its constitution, by legislative enactment, and by a vote of the people had declared that the public school system was a state function, and in support of this declaration had assessed taxes to such an amount that the income from the Literary Fund passed somewhat into insignificance. Even as early as 1873 Superintendent Ruffner reports that

"This matter of the Literary Fund is one of mere punctilio, excepting the small loans to Washington College and Richmond City, the \$50,000.00 of the Fairmont Bank stock seized by West Virginia, and the investment of fines reported last year. The setting apart by the constitution of the old State stocks for free school purposes was worse than superfluous, because the support of the school system was otherwise provided for; and although the interest of the fund happened to serve an important purpose last winter in meeting an emergency, it can have no especial value after the school system is fully set up." (12)

The fact that the capitation and property tax in 1873 amounted to \$380,000.00 and the proceeds for the same year of the Literary Fund were only \$80,024.00 might point out their relative worth and suggest an explanation relative to Superintendent Ruffner's attitude towards a discontinuance of the Literary Fund, and his endorsement and support of Governor Walker's recommenda-

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(12) Virginia School Report, 1973. p. 17.

tion in his annual message to the Legislature of 1873 urging "an amendment to the constitution whereby the State capitation tax might be increased to \$2.00 for the support of schools." (13) Likewise in the same report he was enthusiastic when he proposed taxes on luxuries and spirituous liquors for the benefit of public schools. He said:

"Luxuries have long been regarded as proper subjects of special taxation at a higher rate than that imposed on ordinary property..... With remarkable unanimity political economists and governments have singled out spirituous liquors as a fit subject for heavy taxation." (14)

Superintendent Ruffner was always eager to espouse any just and reasonable legislation that resulted in financial assistance either to the schools directly or to the Literary Fund. His fight was based on his belief in a state supported and state controlled system, supplemented by county and district taxation.

The capitation tax, personal property tax, along with the annual income of the Literary bonds were all amassed under the name of State Literary Funds and were distributed by the State Board of Education. Finally in 1886 the State Board of Education was ordered by legislative enactment to fund all of the Literary bonds into new 3% bonds. The net amount accruing to the

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(13) Virginia School Report, 1873. p. 169.

(14) Virginia School Report, 1873. p. 179.

Literary Fund under this transaction was \$1,084,227.28 in 3% bonds, to which was added \$94,900.00 of the same class of bonds purchased out of fines and escheats.

After 1886 conditions generally changed. Finances no longer remained the great obstacle that completely blocked the school system of 1870. For sixteen years Superintendent Ruffner had fought an untiring fight with a determination that knew no defeat. His efforts were crowned with success, and he was amply rewarded when he saw in every quarter of the State ample evidence that the people realized the importance of public education and at the same time displayed an increasing disposition to be taxed to support that belief in a creditable way. In 1890 Superintendent John E. Massey reported that there were 7,511 school buildings with 7,523 teachers. In these schools there were enrolled 374,607 white and colored pupils, and 10,476 were furnished text books by the State. The total receipts of the Literary Fund from all sources for the year amounted to \$342,627.48 and the total disbursements were \$280,934.16. Five years later Superintendent Massey stated:

"The pressing need of the school system is more money..... our system of education is not complete. The establishment of county high schools or academies would strengthen the entire system from the lowest primary grade to the University..... Virginia operates the machinery of a great and growing school system, but want of necessary capital impairs its efficiency. I therefore recommend that the law governing school levies be amended....

a capitation tax of one dollar and a property tax of not less than one and one-half mills nor more than five mills on the dollar." (15)

One is unable to state all the motives behind Superintendent Massey's recommendation to increase the property tax one-half of a mill on the dollar, but to be sure he had in mind not only high schools and academies but all those progressive educational achievements which were to follow in the next decade, such as consolidation, transportation, district and county high schools.

#### The Constitution of 1902

Superintendent Joseph W. Southall said that the new constitution which went into effect on July tenth, 1902, contained very liberal provisions for public schools. Section 134 states:

"The General Assembly shall set apart as a permanent and perpetual literary fund, the present literary fund of the State; the proceeds of all public lands donated by Congress for public free school purposes; of all escheated property; of all waste and unappropriated lands; of all property accruing to the State by forfeiture; and all fines collected for offenses committed against the State, and all such other sums as the General Assembly may appropriate." (16)

By this section the Literary Fund was again reestablished and became a part of the fundamental law of Virginia.

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(15) School Report, 1895. pp. 22-23.

(16) Thorpe, F.N. The Federal and State Constitution. p. 3933.

It required the General Assembly to apply the annual interest of the Literary Fund, that portion of the capitation tax not returnable to the cities and counties, and the annual tax on property of not less than one mill on the dollar, to schools of the primary and grammar grades.

The Constitution of 1902 increased the capitation tax to one dollar and fifty cents, one dollar of which must be applied exclusively to aid public free schools. It also required that the State Superintendent should be elected by the qualified voters of the State.

Joseph D. Eggleston was the first superintendent of public instruction elected by the people. He had tried to persuade others to become candidates, but when he could induce no other he became a candidate himself and was elected. His administration of nearly eight years stands out as an era of educational progress and advancement, comparable only to the struggle and accomplishments of the wise administration of Superintendent W.H. Ruffner. It was in Superintendent Eggleston's administration that the Williams Loan Fund Bill was passed in 1906, reading as follows:

"Section 1. Be it enacted by the General Assembly of Virginia, That the State Board of Education be and it is hereby authorized to loan to the school boards of the school districts in this State making application therefor, money belonging to the literary fund, and in hand for investment for the purpose of erecting school houses in such districts, on the terms and conditions hereinafter set forth and subject

to such rules and regulations as may be promulgated by said Board.

Section 2. The several school boards of the school districts in this State are hereby authorized to borrow money belonging to the said literary fund, and the district school boards of any district desiring to borrow a part of said fund shall make written application to the State board of education and shall set forth therein (one) the amount of the proposed loan; (two) the plans and specifications, estimated cost and location of building to be erected; and (third) facts showing the advisability of erecting the same.

Section 3. Upon approval of the State Superintendent of public instruction of the plans and specifications for and the location of the proposed building and of making the loan, the State board of education may, in its discretion, make such loan; provided, that no such loan for any one building shall exceed the sum of three thousand dollars, nor shall it exceed fifty per centum of the cost of the same, and no loan shall be made to aid in the erection of a building to cost less than two hundred and fifty dollars.

Section 4. All such loans shall bear interest at the rate of four per centum per annum..... the principal thereof shall be payable in ten annual installments, and shall be evidenced by bonds or notes payable to the Commonwealth of Virginia for the benefit of the Literary Fund....." (17)

This act of 1906 provided for loans from the Literary Fund to the District school boards for the purpose of erecting rural schools in the same year, providing for an appropriation of \$50,000.00 to be given on the condition that the local communities would furnish

proper buildings and match the appropriation dollar for dollar. Both bills, passed under the leadership of Superintendent Eggleston, were two great laws that helped to pave the way for Virginia's educational system of the twentieth century.

The Williams Building Act has been amended three times--- in 1908, 1914, and 1916. In the first instance the amount that could be borrowed was increased, at the recommendation of Dr. Eggleston, from \$3,000.00 to \$10,000.00. In 1916 the matter of loaning the literary funds to the school districts and cities of the State was delegated by the Legislature to the State board of education with the requirement that "all loans not exceeding \$3,000.00 shall bear interest at the rate of three per cent and all over that shall bear interest at four per cent." (18) At the next session of the General Assembly, the high school appropriation of \$50,000.00 was increased to \$100,000.00, and by 1910 the high school appropriation was again doubled. Superintendent Joseph Eggleston said,

"No educational movement in recent years has accomplished greater results than the high school which has followed the enactment of the high school statute of 1906. During the session of 1906-1907 one hundred and forty-nine new high schools were established. These schools are more widely distributed and have accomplished greater results than even the most sanguine friends of the high school movement dared to hope. The \$50,000.00 appropriated by the Legislature has been supplemented by several times as much from local taxes and donations. No one cause has

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(18) Acts of Assembly, 1916. pp. 378-379.



contributed more largely to the establishment of consolidated schools and the erection of creditable school houses than the high school act. It has put new vigor from top to bottom." (19)

Superintendent Eggleston in his biennial report of 1909-1911 complained that the local revenues were increasing much more rapidly than the State revenues. He said,

"In a state so largely rural it is necessary that the State funds bear a greater part of the burden than one-third and I feel that too little of the State's money is being appropriated for schools. The State school fund is the very life blood of the elementary schools in the country. Nowhere else does the State aid do so much good; nowhere else does the lack of it leave educational conditions so prostrate." (20)

The period from 1905 to 1916 was a period of real school growth. In 1905 there were fifty high schools in the State, and, under the stimulus of the incentive fund given by the State, the number increased rapidly for several years. In 1910 there were 360, and in 1916 over four hundred high schools. (21) The entire fund for school purposes increased from \$2,432,102.00 in 1905 to \$5,000,000.00 in 1911, and in the year of 1915 the amount was \$7,247,602.37. During the same period the value of school property rose from four million to over fifteen million in 1916. In like manner, the number of

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(19) Virginia School Report, 1905-1907. p. 19.

(20) Virginia School Report, 1909-1911. p. 14.

(21) Heatwole, C.J. History of Education in Virginia. p. 329.

school houses increased from 8,913 in 1905 to 13,025 in 1916; the number of pupils from 361,772 to 491,843 during the same period. In 1907 the permanent capital of the Literary Fund amounted to \$2,221,976.10, and 1916 the amount was \$3,143,503.72. In the same years the amount of money loaned school districts from the Literary Fund by the State Board of Education increased from \$406,548.82 to \$1,041,676.44. The annual income from the Literary Fund also gradually increased from \$60,127.18 in 1906 to \$90,515.76 in 1915, and to \$199,789.60 in 1933. As stated before, the annual income of the Literary Fund is allocated with other funds of the state to the various counties by the State Board of Education on a pro rata population basis. Superintendent Sidney B. Hall's summary of receipts for maintenance of public schools in 1933 is as follows:

*Receipts	
Appropriations	\$4,528,290.00
Income from Literary Fund	199,789.60
Capitation and other	
segregated taxes	605,604.32
	<u>\$5,333,683.92</u> (22)

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(22) Annual Report of Superintendent of Public Instruction, 1933. p. 118. Sidney B. Hall.

### Summary

By the Constitution of 1869 and subsequent legislative enactments, it was definitely decided that education was a state function, and accordingly mandatory taxes were levied to support the educational system ably headed by Superintendent W.H. Ruffner. Progress at first was slow, and many obstacles had to be met and overcome. The effects of Reconstruction and the obligation of a huge state debt demoralized any favorable consideration of an educational system. Many questions arose as to which obligation of the State was foremost, the education of the children of the State or the payment of the creditors of the State. Constitutional and legislative provisions for taxes for educational purposes were disregarded and school funds to over a million dollars were diverted to other governmental activities. Finally, in 1886, the newly elected Legislature with the approval of the Governor replaced to the credit of the schools the amount of diverted funds, and Virginia's hope for a creditable educational system went forward by leaps and bounds. The Constitution of 1902 was favorable to education generally, the capitation tax was raised to one dollar and fifty cents, the property tax was continued, and the Superintendent of Public Instruction was to be elected by a vote of the people. During the first fifteen years of the twentieth century, great

progress and advancement were made as a result of the Williams Building Act and the Mann High School Bill.

The Literary Fund from 1870 to 1906 was not greatly respected, nor did it have any real importance. For a number of years its abandonment was recommended. But in 1906 the Literary Fund again came to the front and by loaning its capital to school districts of the State, the great progress of consolidation and of high school building was carried forward. In 1907, the first year after the enactment of the Williams Building Act, the permanent capital of the Literary Fund was \$2,221,976.10, and in the same year there was loaned by the State Board of Education to the school districts for building purposes the sum of \$406,548.82. The permanent capital of the Literary Fund in 1916 was \$3,143,503.72. Of this amount there were \$1,041,676.44 in district school bonds, and the remainder in Virginia State bonds.

The Literary Fund at present (1936) represents an investment of \$6,611,401.00 in securities, and about \$300,000.00 in cash. The investments are made up of the following securities:

Virginia Century Bonds	\$229,500.00
Loans to school boards of counties and cities for new buildings	4,111,466.00
County and city school bonds purchased as investment for Literary Fund	163,600.00
College Certificates purchased as investment for Literary Fund	2,106,835.00

Today, the Literary Fund, established in 1810 with a permanent capital of nearly \$7,000,000.00 and an annual income of approximately \$250,000.00 is an important source for the support of the public school system of Virginia.

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## Vita

## Oscar S. Chaplain

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Attended Peabody Grammar School, Washington, D.C., 1901-1903.

Attended Randolph Macon Academy, Bedford City, Virginia, 1903-1906.

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Principal Lignum High School, Lignum, Virginia, 1910-1911.

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